

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

KIMBERLY DAVIS WHITESIDE,

Plaintiff,

v.

CITY OF COLUMBUS, et al.,

Defendants.

Case No. 2:12-cv-1044

JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Mark R. Abel

ORDER

On July 25, 2013, this Court issued an Opinion and Order in which it granted Defendants' Motion to Dismiss as it related to any claims brought by Plaintiff in her name for her benefit, leaving only claims asserted by Plaintiff as the administratrix or executor of the estate of her deceased son. In that regard, Plaintiff was given twenty days from July 25, 2013, in which to submit to the Court a copy of her appointment as executor or administratrix of her son's estate or explain why the Court should not dismiss the action. Plaintiff failed to submit any document on information.

On September 5, 2013, Plaintiff filed a Motion for Leave to File *Instantly*, in which she requested additional time to provide evidence that she was appointed as the executor or administratrix of her son's estate. (ECF No. 16.) Plaintiff indicated that she had filed suit against her attorney, who, Plaintiff claims, would not provide her with the information related to her appointment as the executor or administratrix of her son's estate. *See Kimberly Davis Whiteside v. Isabella Thomas Dixon*, No. 13 CV 2006 (Fr. Cty. Ct. Common Pleas). Plaintiff attached discovery requests she had propounded in that state court case. (ECF No. 16-1.) That

case, however, was dismissed on March 26, 2014 for failure to prosecute. *See Rodic v. Thistledown Racing Club, Inc.*, 615 F.2d 736, 738 (6th Cir.1980) (“Federal courts may take judicial notice of proceedings in other courts of record.”) (citation omitted). Further, the Court finds no record in the Franklin County Probate Court on-line records indicating that Plaintiff has been appointed or has applied to be appointed as her son’s executor or administratrix.


This case was originally filed two and one-half years ago. Two years ago, Plaintiff voluntarily dismissed the case when faced with a motion to dismiss based on her failure to show that she was appointed as executor or administratrix of her son’s estate. The Court has provided Plaintiff with numerous opportunities to provide this information and she has failed to do so. The Court, therefore, **GRANTS** Defendants’ request to dismiss this action.

The Clerk is **DIRECTED** to **ENTER JUDGMENT** in accordance with this Opinion and Order.

IT IS SO ORDERED.

4-1-2014

DATE



EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE